

COPY



## TRUCKING AGREEMENT

By and Between

TEAMSTERS UNION LOCAL 445, IBT, AFL-CIO  
PO Box 2097  
Newburgh, NY 12550

and

In the Counties of:

DUTCHESS, ULSTER, SULLIVAN, ROCKLAND AND ORANGE OF NEW  
YORK STATE

July 1, 2002 -- June 30, 2005

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AGREEMENT made this 1<sup>st</sup> day of July, 2002, by and between area Trucking Contractors, hereinafter referred to as the "Employer" and LOCAL UNION 445, affiliated with the INTERNATIONAL BROTHERHOOD OF TEAMSTERS, located at PO Box 2097, Newburgh, New York, 12550, and affiliated with the Sullivan, Ulster, Orange, Rockland and Dutchess Building Trades Councils, hereinafter referred to as the "Union" and for and in behalf of the employees now employed and hereafter to be employed by the Employer during the term of this Agreement and hereinafter referred to as the "Employees".

WITNESSETH:

WHEREAS: The parties hereto are desirous of improving the labor relations between the Employer, Employees and the Union, and

WHEREAS: The parties hereto are desirous of establishing a basic understanding relative to the terms and conditions of employment of the Employees by the Employer;

NOW, THEREFORE, in consideration of the premises and promises set forth herein, and the benefits and advantages accruing or expected to accrue to the parties hereto and those covered by this Agreement by reason thereof, and said parties agree as follows:

#### **ARTICLE I – SCOPE OF AGREEMENT**

Operations Covered: The execution of this Agreement on the part of the Employer Associations, shall cover all employees of the Employer now and during the term of this Agreement engaged in material supply work as Chauffeurs, Drivers, Warehousemen, Platform Men, and Helpers.

The Employer recognizes the Union as the sole exclusive bargaining agent for said employees during the term of this Agreement. No waiver, modification, or variation of any term or provision of this Agreement shall be effective unless agreed upon in writing by the Employer and the Union.

Transfer of Company Title or Interest: This Agreement and any Supplemental Agreements hereto, hereinafter referred to collectively as "Agreement" shall be binding upon the parties hereto, their successors, administrators, executors and assigns.

In the event an entire operation or any part thereof is sold, leased, transferred, or taken over by sale, transfer, lease assignment, receivership, or bankruptcy proceedings, such operation shall continue to be subject to the terms and conditions of this Agreement for the life thereof.

It is understood and agreed that the parties hereto shall not use any leasing devices to a third party to evade this Agreement. The Employer shall give notice of the existence of this Agreement to any purchaser, transferee, leasee, assignee, etc., of the operation covered by this Agreement, or any part thereof. Such notice shall be in writing with a copy to the Local union at the time the seller, transferor, or leasor executes a contract or transaction as herein described.

The Local Union shall also be advised of the nature of the transaction, not including financial details. In the event the Employer fails to require the purchaser, transferee, or leasee to assume the obligations of this Agreement, the Employer shall be liable to the Local Union to the employees covered for all damages sustained as a result of such failure to require assumption of the terms of this Agreement, but shall not be liable after the purchaser, the transferee or leasee has agreed to assume the obligations of this Agreement.

## **ARTICLE II – MINIMUM RATES OF PAY**

The minimum rates of pay, including all fringe benefits, hours of work, and other provisions as set forth in Schedule "A", annexed hereto, are made a part hereof.

## **ARTICLE III – PAID HOLIDAYS**

Any Employee ordered to working on Sunday or the following holidays:

New Year's Day	Decoration Day	Presidential Election Day
Martin Luther King B'day	Independence Day	Thanksgiving Day
Presidents Day	Labor Day	Christmas Day

shall receive two (2) times the regular straight time hourly rate for all hours worked.

To qualify for holiday pay, employee must work either the scheduled day of work before or the scheduled day of work after the holiday in the workweek. When a holiday falls on a Saturday, the employer has the option to work or not work Friday and pay the holiday.

If the work opportunity on any day is lost by an employee covered hereby because the Employee does not work due to a holiday celebrated by another craft or trade, such employee shall receive one (1) day's pay at his regular straight time hourly rate of pay.

Any employee working one (1) day in the calendar week during which a holiday occurs shall receive a day's pay for each holiday occurring during said week, even though he is not ordered to work thereon. This provision shall also apply if a holiday falls on a Saturday.

All provisions in Schedule "A" of this Agreement with respect to holiday pay shall apply to work performed on any of the recognized holidays.

When any of the recognized holidays occur on Sunday and are celebrated any day before or after the holiday Sunday, such days shall be considered as the holiday and paid for as such. Shape time on holidays shall be computed at the holiday rate.

## **ARTICLE IV – BEREAVEMENT LEAVE**

In case of death in any employee's family (i.e., spouse, mother, father, sister, brother, children, mother-in-law, father-in-law, grandmother, grandfather, grandchildren) the Employer shall grant such employee a maximum of three (3) days off with pay for the express purpose of

attending services for the deceased. Death certificates or other proof of this provision with respect to pay for such time off shall not apply where such death would not otherwise deprive the Employee of the work opportunity with the Employer. In order to qualify for Bereavement, an Employee must have worked for the company for a period of one year.

#### **ARTICLE V – FULL DAY'S PAY**

Any employee hurt on the job and having to be relieved from duty shall receive a full eight (8) hours pay for that day.

Welfare and Pension to be paid at a minimum of eight (8) hours.

#### **ARTICLE VI – UNION SECURITY**

1. All present employees who are members of the union on the effective date of the Agreement shall remain members of the Union in good standing as a condition of continued employment. All present employees who are not members and all employees hired hereafter shall become and remain members of the Union in good standing as a condition of employment on and after the 30<sup>th</sup> day following the beginning of their employment, or on and after the 30<sup>th</sup> day following the effective date of this Agreement, whichever is the later.

2. Upon notice from the Union that any employee, who, thirty-one (31) days from the date of first employment has failed to tender the periodic dues and initiation fees uniformly required as a condition of acquiring and retaining membership in the Union, the Employer agrees to immediately discharge or suspend such employee as determined by the Union.

3. The Employer agrees to deduct from all regular employees covered by this Agreement dues of the Local union and agrees to remit to said Local Union No. 445 all such deductions prior to the end of the month for which the deduction is made. Where laws require written authorization by the Employee, the same is to be furnished in the form required. No deduction shall be made which is prohibited by applicable law.

4. In the event of any change in the law during the term of this Agreement, which would provide greater union security than is provided herein, then in that event, the Employer agrees that this provision shall be amended for such greater union security.

5. The Employer, REQUIRING NEW OR ADDITIONAL EMPLOYEES, shall first contact the Union Office by calling the Union at:

Stone Castle Road, Box 2097, Newburgh, NY  
(845) 564-5297,8,9

or any other office designated by the Union from time to time for all employees in the bargaining unit who are needed.

6. In the event the Employer is notified that such help is not available, or in the event the Employees designated by the Union do not appear for work at the time designated by the Employer, the Employer may hire from other available sources.

7. It is the intention of the parties hereto to take advantage of the recent clarification of the laws of hiring by the United States Supreme Court that the Union will have the exclusive right to supply all employees in the bargaining unit; that the parties mutually promise that no discrimination with reference to membership or non-membership in the Union will be practiced against any employee in the bargaining unit. Violation by any Employee of this hiring clause will result, upon demand by the Union to the Employer in immediate discharge of any such employee.

8. It is understood and agreed that the Employer reserves the right to finally pass upon any applicant for employment. However, should the Employer reject such person for employment, he shall be obligated to immediately reinstate his request under this provision for such employee(s) required.

#### **ARTICLE VII - EXTRA AND OUTSIDE EQUIPMENT**

1. It is understood and agreed that when extra and outside equipment is required, the contractor shall give 48 hours prior notice to the Union. The Union shall provide to the Contractor a list of truckers that the contractor may contact for rental. Manning of such equipment shall be by employees covered by this Agreement, in accordance with the Union's hiring hall procedure and subject to Article XII, "Seniority", Section D of this Agreement.

2. In the event the contractor cannot satisfy the equipment needs from the Union's list of truckers, the contractor shall then obtain bare rentals to fill the job requirement. Manning of such equipment shall be by employees covered by this Agreement, in accordance with the Union's hiring hall procedure.

3. It is understood and agreed that whenever Owner-Drivers are used, the Employer must, in compensating such Driver, separate the payments for truck rental from the wages paid to him for personal services to that the sum of money paid to him for personal services is not less than the wages (including all fringe benefits and other conditions and benefits of Schedule "A") and all other provisions of this Agreement.

4. It is understood and agreed that extra equipment shall not be assigned to work at any time prior to the Employer using his own equipment or available bare equipment. However, no such equipment shall be put to work unless mutually agreed upon between the Employer and the Union.

5. It is understood and agreed that where an employer violates any part of the provisions of this Article, such violations shall be considered as a breach of this Agreement, and the Union shall have the right to withdraw the Employees from the employee of the Employer until the Employer abides by the provisions of this Article.

6. It is understood and agreed that where extra equipment is required by the Employer, he shall notify the Union offices at:

Stone Castle Road, Box 2097, Newburgh, NY 12550  
Area Code (845) 564-5297,8,9

to that effect. However, no such extra equipment shall be put to work unless mutually agreed upon between the Employer and the Union.

#### **ARTICLE VIII - WORKMEN'S COMPENSATION, SOCIAL SECURITY, ETC.**

The Employer shall protect the Employees with Workmen's Compensation Insurance, Social Security and unemployment Insurance. Furthermore, the Employer shall promptly comply with all and any laws, ordinances, orders, rules, rulings, and regulations of any and all municipal, county, state and federal authorities, boards, commissions, or other governmental agencies, including the prompt payment of overload fines in the event of a guilty plea or a conviction, relating to either the employment or protection of employees, or both.

#### **ARTICLE IX - SAFETY - EQUIPMENT**

A. The Union and Employer recognize that safety on the job is of paramount importance to both parties of this Agreement. To this end the parties hereto agree to operate to the fullest extent to promote safety on the job and to comply with all governmental safety and health rules and regulations.

B. No employee shall be required to work upon a vehicle which is overloaded, or to operate at an excessive speed schedule, or to operate without sufficient rest or in violation of any law or ordinance. Refusal on the part of an employee to operate such vehicle shall not be considered a violation of this Agreement.

C. The Employer shall not require or request any employee to use equipment that has been reported by any other employee as being in an unsafe operating condition until same has been approved as being safe by the Mechanical Department of the Employer.

Refusal by an employee to operate such equipment shall not be considered a violation of this Agreement.

D. Whenever a driver is penalized because of overloaded (including maximum weight or load distribution) or faulty equipment, the Employer shall pay all damages assessed against the Employee, including bail bonds, legal fees, accrued overtime for delay, and for any lost earning opportunity that the Employee might suffer.

All fines must be paid on or before the date returnable and the driver must be furnished with receipt evidencing payment of such fine by the Employer.

(Where weight distribution can be properly assessed by the driver, the Union agrees to cooperate insofar as is possible in requiring employees to recognize said responsibilities in the loading of such equipment.)

E. In the event that an employee shall suffer a revocation of his chauffeur's license because of violation of any laws by the Employer, the Employer shall provide suitable and continued employment for such employee at not less than his/her regular earnings at the time of revocation of his/her license.

F. No Employee shall be required to operate any equipment not equipped with heaters, defrosters, where their use is necessary and likewise any other equipment required by law.

G. Any Employee involved in any accident which such employee is aware must immediately report such accident and any physical injury sustained. When required by his Employer, the Employee, before going off duty and before starting his next shift, shall make an accident report in writing on forms furnished by the Employer, and shall turn in all available names and addresses of witnesses to the accident. Such reports shall be made out on company time.

H. Whenever an employee is arrested or legally detained as a result of an employer's failure to pay a levied overload or faulty equipment violation, the Employer shall pay said employee for all lost earning time and overtime at the rate of double the applicable straight time hourly rate.

Grievances arising out of this clause shall be subject to application and determination by the Union representatives in relationship to the type of job.

#### **ARTICLE X - EMPLOYEE RIGHTS, PROTECTION RIGHTS**

It shall not be a violation of this Agreement, and it shall not be cause for discharge or disciplinary action in the event an employee refuses to enter upon any property involved in an approved labor dispute, or refuses to go through or work behind any picket line approved by the Union, including the primary picket line of Unions party to this Agreement, and including primary picket lines at the Employer's place of business. Under no circumstances shall an employee be required to place himself in physical danger.

No employee(s) shall be required to work or perform services for any other employer where the union is conducting a lawful strike.



#### **ARTICLE XI – SENIORITY**

A. Seniority shall prevail in that the Employer recognizes the seniority rights of an employee for the purpose of available work as described herein, and for layoffs and rehiring. However, it is understood and agreed that such seniority shall only apply to each year, as determined by the Union.

B. Senior Employees shall have preferences on all overtime work and starting times.

C. Any employee who is absent through sickness or injury shall receive his/her regular position on the yard seniority list upon returning to work.

D. Periodically, the Union will supply the Employer with a seniority list as determined by the Union.

E. Owner-Operators and Owner-Divers and Employees of Owner Operators shall hold seniority status as determined by the Union.

F. Casual or Replacement Workers must be employed by the Company for thirty (30) days in a calendar year before being placed on the Seniority List.

#### **ARTICLE XII – SHOP STEWARDS**

A. The Employer recognizes the right of the Union to appoint one of its members from the seniority list of the Employer to act as Shop Steward, in addition to his/her regular classification of work. The Steward shall see that the provisions of this Agreement are being complied with, and shall try to adjust minor disputes. The Union reserves the right to remove the Shop Steward at any time for the good of the Union.

B. The Employer shall not discriminate against the Shop Steward, and before discharging the Shop Steward, shall take the matter up with an official of the Union. The Shop Steward shall have top seniority over all other employees as long as he/she is Shop Steward.

C. The Employer agrees to extend a reasonable time to the Shop Steward for the handling of any and all grievances.

D. The Employer agrees that on the resumption of any job after lay-off, Employer shall notify the Shop Steward to recall the necessary employees on the seniority list that are needed for the work schedule.

Failure on the part of any employee to respond to a notice of recall shall result in a loss of seniority, unless otherwise agreed to by the Employer and the Union.

E. Shop Stewards shall be retained on a year 'round basis whenever the yard or plant is in operation. (Grievances arising out of this clause shall be determined by the representatives of the Union.)

### **ARTICLE XIII – SENIOR TEAMSTER**

The Senior Teamster's duties shall consist of coordinating with the Employer all Teamster activities in the yard, maintenance of Teamsters jurisdiction in the yard, inspection and safe operation of all Teamster operated equipment, chasing all parts to be used in the plant or yard, hiring of additional Teamsters, verification of Pension and Welfare contributions, in accordance with the Agreement, and lay-off of Teamster employees.

The Senior Teamsters shall be paid the hourly wages as set forth in Schedule "A" of this Agreement, and shall be guaranteed forty (40) hours work or pay each week.

If a Senior Teamster is employed in the plant or yard, he/she shall also act as Shop Steward. In no event shall there be a separate Shop Steward and Senior Teamster employed in the yard.

### **ARTICLE XIV – DISCHARGE OR SUSPENSION**

A. The Employer shall not discharge or suspend any employee without just cause. Prior to discharging or suspending any employee, the Employer shall notify the Shop Steward or his intention to do so and shall outline the reason for his proposed action. It shall be compulsory for the Shop Steward to immediately notify the representative of the Local Union, who shall make themselves available to the Employer for a meeting for the purpose of discussing the proposed discharge or suspension within two (2) days after the receipt of such notice.

B. If the representative of the Union, after hearing of the case, agrees that the discharge or suspension is proper, then that shall end the matter, and such decision shall be final and binding. The Employee may be suspended until such time and said arbitration referred to herein is held and the decision rendered. However, the Employer electing to suspend any employee pending the outcome of such arbitration shall be required to immediately initiate such arbitration. For the purposes of this provision, the Employer shall be obligated to notify the Mediation Board by Registered Mail, a copy of such notice to be sent to the Local Union offices at Box 2097, Newburgh, New York, 12550, with a copy of same to be sent to the Employee.

The initiation of such arbitration by the Employer shall not exceed three (3) days after such suspension by the Employer. Failure on the part of the Employer to initiate such arbitration within seventy-two (72) hours after such suspension shall automatically cause the reinstatement of such employee with pay for all lost time.

C. It is understood and agreed that if in the opinion of the Shop Steward and Business Representative of the Union, any proposed discharge or suspension by the Employer requires immediate action, then in that event the representatives of the Union may agree with the Employer for immediate suspension pending the final formal hearing referred to below, or may agree to immediately discharge, which shall end the matter.

D. It is understood and agreed that the arbitration referred to in this Article, shall be the American Arbitration Association, and the parties agree to abide by and perform the award.

#### **ARTICLE XV – GRIEVANCE PROCEDURE AND ARBITRATION**

It is understood and agreed that where grievances arise between the Employer and the Union involving questions of direct violation of this Agreement with references to wages and hours, the Union's right to economic recourse shall not be impaired. Accordingly, the following provisions shall be observed by the Employer and the Union with respect to some grievances only:

STEP 1: Should the grievance arise on the job, the Shop Steward and the Superintendent shall take immediate steps to satisfactorily settle the grievance.

STEP 2: If the grievance cannot be resolved in Step 1 above, the matter shall be referred to the Business Representative of the Union and a representative of the Employer above the level of superintendent for disposition. These parties must meet within forty-eight (48) hours after a referral of the dispute, unless additional time is mutually agreed upon.

STEP 3: In the event the grievance cannot be resolved in Step 2 above, the two representatives shall reduce the grievance to writing and make arrangements for a third party to act as arbitrator for the grievance. It is agreed that if the two representatives cannot agree on an arbitrator, then the Arbitrator shall be chosen by the American Arbitration Association. The choice of the Arbitrator and the hearing before such arbitrator shall occur within ten (10) days, from the meeting in Step 2 above. By mutual agreement, this time may be extended for a period not to exceed ten (10) days.

The decision of the Arbitrator shall be final and binding on both parties, it being understood that the Arbitrator shall not have the power to add to or disregard any of the terms and conditions of this Agreement.

STEP 4: The expenses of the arbitration shall be equally shared by both parties. Grievances must be processed within the time limits set forth in this Article, unless extended by mutual agreement or such grievances shall be considered to have been satisfactorily settled against the party defaulting.

It is the desire of the parties signatory this Agreement by subsequent discussions and mutual agreement during the life of this Agreement, to establish for the duration of this Agreement a Joint Committee, to be known as the Local 445 Contractors Joint Grievance Committee, which shall consist of three (3) representatives of the Employers and three (3) representatives of the Union.

The rules governing the function of said committee, if subsequently agreed upon, shall be formulated by the representatives of the Committee.

(This provision of intent shall not impair the Union's right to economic recourse during the life of this Agreement, if the parties fail to agree upon the establishment of such a committee.)

#### **ARTICLE XVI – MILITARY SERVICE**

Employees entering the Military Service in any branch of the Armed Forces of the United States, shall, upon discharge from such service, be entitled to re-employment by the Employer in accordance with all the applicable provisions of Law pertaining thereto. Employees required to serve in the National Guard or Reserves shall be granted an appropriate leave of absence, and time so spent shall be credited for and paid for the purpose of holidays and Welfare and Pension payments up to a maximum of fourteen (14) calendar days.

#### **ARTICLE XVII – LIE DETECTOR TEST**

The Employer shall not require, request or suggest that Employees or applicants for employment take polygraph test or any other form of lie detector test.

#### **ARTICLE XVIII – WELFARE & PENSION CONTRIBUTIONS**

A. The Employer agrees to make contributions to the Trustees of the Teamsters Local 445 Construction Division Health and Welfare Fund, and the Teamsters Local 445 Construction Division Pension Fund, in the amounts provided for in Schedule "A" of this Agreement. Said contributions are to be made on behalf of all employees covered by this Agreement for all hours paid for or worked by such employees, including overtime, up to a maximum of 40 hours per week on Welfare and up to 40 hours per week on Pension. Replacement workers will receive Pension and Welfare on all hours worked.

B. An Employer who posts a bond equal to the average monthly Welfare and Pension contribution must pay over such contributions within 60 days after the end of the month in which the contributions are earned.

C. It is further agreed that failure on the part of the Employer to pay the contributions to the Trustees of the Health & Welfare Funds and Pension Funds when due shall be deemed a violation of this Agreement, and the Union shall order a work stoppage of the Employer's employees until such payments are made, and such work stoppage shall not be a violation of this Agreement.

D. In the event of a work stoppage, legal action or arbitration caused by the failure of the Employer to make the contributions required as provided for in this Article, the Employer shall be responsible for the payment of all lost wages and conditions to the employees involved in such work stoppage, plus all legal fees and monies owed to the Funds, with a ten percent (10%) late penalty charge for such delinquency.

E. Nonpayment of the contributions required constitutes notice. No further notice will be given.

F. Welfare and Pension contributions at the rates listed in Schedule "A" shall be made on all hours paid for or worked, including overtime hours, holidays, as provided for in this Agreement under Paragraph "A". In no event shall the contribution be less than eight (8) hours for any day an Employee performed work. Shape time for the purpose of Welfare and Pension contributions shall be four (4) hours.

G. If an employee leaves job early without prior consent of employer, all benefits will be paid on hours worked, only.

#### **ARTICLE XIX – ANNUITY FUND**

A. The Employer agrees to comply with the Trust Agreement and the Rules and Regulations of the Teamsters Local 445 Annuity Fund known as the "Teamsters Local 445 Construction Annuity Fund" and the same may be amended from time to time except that no amendment may affect the Employer's obligation to contribute to the Fund beyond the obligation contained in this Agreement. The aforesaid Trust Agreement, Rules and Regulations shall become and remain a part of this Agreement.

B. The Employer shall pay to the fund Office the sums as listed in Schedule "A". the sums are on a per hour for each hour worked by Employees covered by this Agreement within each respective week, including two hours of shape time, straight time and overtime up to 40 hours.

C. The Employer shall contribute to the Fund on the same basis for all hours paid up to 40 in the form of holiday pay and actual hours shape hours paid.

D. Payments to the Fund shall not be required on the basis of funeral leave as set forth in this Agreement. The aforesaid Fund and/or the Union shall have the power to require any Employer, and the Employer, when required shall furnish any reports and information as they may require in the performance of their duties in the collection of contributions to the Fund.

E. The Employer agrees to make contributions payable to the Trustees of the Teamsters Local 445 Construction Annuity Fund. The Employer must pay over such contributions within 60 days after the end of the month in which the contributions are earned.

F. It is further agreed that failure on the part of the Employer to pay contributions to the Trustees of the Annuity fund when due shall be deemed a violation of this Agreement, and the Union shall order a work stoppage of the Employer employees until such payments are made, and such work stoppage shall not be a violation of this Agreement.

G. In the event of work stoppage, legal action or arbitration caused by the failure of the Employer to make contributions required as provided for in this Article, the Employer shall be responsible for the payment of all legal fees, and monies owed to the Fund, with a ten percent (10%) late penalty charge for such delinquency.

H. Non payment of the contributions required constitutes notice. No further notice will be given.

**ARTICLE XX**  
**EDUCATION AND TRAINING FUND**

A. The Employer agrees to comply with the Trust Agreement and the Rules and Regulations of the Teamsters Local 445 Education and Training Fund known as the "Teamsters Local 445 Education and Training Fund", and the same may be amended from time to time except that no amendment may affect the Employer's obligation to contribute to the Fund beyond the obligation contained in this Agreement. The aforesaid Trust Agreement, Rules and Regulations shall become and remain a part of this Agreement.

B. The Employer shall pay to the Fund at the Fund Office as per Schedule "A". Contributions will be paid as per Schedule "A" on all hours worked or shaped up to (40) forty hours per week.

C. The Employer shall contribute to the Fund on the same basis, for all hours paid as Holiday, for all hours paid as shape and worked, to a maximum of (40) forty hours per week (except subject to Article XXIII Paragraph 9).

D. Payments to the Fund shall not be required on the basis of funeral leave as set forth in this Agreement. The aforesaid Fund and or the Union shall have the power to require any employer, and the Employer, when required, shall furnish any reports and information as they may require in the performance of their duties in the collection of contributions to the Fund.

E. Payments will be made weekly to the Fund by Check, payable to Teamsters Local 445 Education and Training Fund. The Employer shall remit and pay over such contributions at the end of each work week.

F. It is further agreed that failure on the part of the employer to pay to the Trustees of Teamsters Local 445 Education and Training Fund the contributions due each week shall be deemed a violation of this Agreement, and the Union shall order a work stoppage of the Employer's employees until such payments are made, and such work stoppage shall not be a violation of this Agreement.

G. In the event of a work stoppage, legal action or arbitration caused by the failure of the Employer to make contributions required as provided for in this Article, the Employer shall be responsible for the payment of all lost wages and conditions to the employees involved in such work stoppage, plus all legal fees, and monies owed the Fund, with a ten percent (10%) late penalty charge for such delinquency on the amount of unpaid contributions due.

#### **ARTICLE XXI - SAVING & SEPARABILITY**

In the event that any provision(s) of the body of this Agreement or in Schedule "A" are in conflict with a provision (s) of the Taft Hartley Law, it is understood and agreed that such provision(s) of this Agreement shall not become operative as long as such conflict exists, but shall become operative immediately upon said provision(s) of law being repealed, or determined to be unconstitutional or inapplicable.

If for the reason above stated any provision hereof shall become inoperative, this Agreement shall be reopened to negotiate only those portions thereof which are in conflict with the Law, and the Union reserves the right to take whatever economic recourse required under the circumstances, to reach an agreement or any new language.

The Employer agrees that no interpretation of this Agreement or any action of the Employee, Shop Steward or Business Representative concerning the terms and conditions of this contract, will be binding upon the Union unless the said interpretation or action has been approved by the Secretary-Treasurer of the Local Union, and the Employer agrees not to take any action of any kind against the Union for any kind of interpretation or act as aforesaid, not having the approval of the Secretary-Treasurer.

#### **ARTICLE XXII - D.R.I.V.E. AUTHORIZATION AND DEDUCTION**

The Employer agrees to deduct from the paycheck of all employees covered by this Agreement voluntary contributions to D.R.I.V.E.

D.R.I.V.E. shall notify the Employer of the amounts designated by each contributing employees that are to be deducted from his/her paycheck on a weekly basis for all weeks worked.

The phrase "weeks worked" excludes any week other than a week in which the employee earned a wage.

The Employer shall transmit to D.R.I.V.E. National Headquarters at 25 Louisiana Ave., N.W., Washington, DC 20001, on a monthly basis, in one check, the total amount deducted along with the name of each employee on whose behalf a deduction is made, the employee's Social Security number, and the amount deducted from the employee's paycheck.

The International Brotherhood of Teamsters shall reimburse the Employer annually for the Employer's actual cost for the expenses incurred in administering the payroll deduction plan.

#### **ARTICLE XXIII - NON DISCRIMINATION**

It is agreed that there shall be no discrimination in hiring and employment practices on grounds of age, race, creed, color, sex or national origin.

**ARTICLE XXIV - ALCOHOL AND DRUG ABUSE PROGRAM**

All parties signatory to this Agreement, and any individual employers will put into effect a Drug Program that satisfies all State, Federal and Private owner requirements. The cost of testing present employees will be paid by the Welfare Fund of Teamsters Local 445. Any new applicants will be required to pay for their own drug testing, or may be paid by the Company, if the Company so desires.



**GENERAL CONDITIONS**

1. The work day shall consist of eight (8) hours. The work week shall consist of five (5) days, Monday thru Friday, inclusive.
2. All work performed on Saturdays shall be paid for at the rate of time and one half (except a Saturday holiday).  
  
All work performed on a Sunday shall be paid for at the rate of two (2) times (except a Sunday holiday).
3. Employees who begin work on a holiday which falls on a Saturday shall be paid two and one half (2 1/2) times the regular hourly rate of pay for all hours worked on that day (which shall include pay for the holiday.)
4. Employees who begin work on a holiday which falls on a Sunday shall be paid three (3) times the regular hourly rate of pay for all hours worked on that day (which shall include pay for the holiday).
5. All hours worked in excess of eight (8) hours on any day (except a Sunday or holiday) shall be paid for at the rate of time and one half (1 1/2) the regular hourly rate of pay for that day.  
  
All overtime shall be paid on a one half hour basis at the appropriate hourly rate or premium rate of pay.
6. Unlimited starting times will be permitted on a one half hour basis up to 8:00 AM.
  - A. When the Employer has a contract to supply material in accordance with bid documents or other requirements restricting work hours, a flexible starting time is permitted on a job-by job basis.
  - B. The Employer agrees that within 24 hours of layoff, it will mail the employee's paycheck to the employee's place of residence.
7. Grease and tire trucks' jurisdiction will be settled by the International Unions involved. However, pending such decision, it is understood and agreed that where this work is presently being performed by Teamsters' employees, that such work shall continue to be performed by employees covered under this Collective Bargaining Agreement.
8. (a) Employees ordered to work any day and not assigned to work shall receive two (2) hours pay at the hourly rate of pay for that day, unless not notified prior to quitting time of the preceding work day.

(b) Any Employee who starts to work on any day shall receive not less than eight (8) hours pay at the rate of pay for that day even though the hours worked are less than eight (8) hours.

(c) Any Employee who is credited with shape time on any day because employee was not assigned to work at his/her regular starting time, but who starts work at a later hour on the same day, shall receive (exclusive of overtime), eight (8) hours pay at the hourly rate of pay for that day.

9. The time of any employee shall be computed from the time he/she checks in at the Employer's garage, yard or warehouse, or temporary garage at job site, and until checking out of same after a day's work.
10. In the event that an employee works any part of a day in a higher classification of work, he/she shall be paid for that day at the rate of pay prevailing for the highest classification of work he/she performs that day.
11. Any employee being assigned to work which necessitates being away from the home terminal or garage or garage at job site overnight, shall be compensated for all board and lodging monies spent on such work.

When an employee does not remain overnight, employee shall be reimbursed only for reasonable expenses incurred, such as meals, tolls, gas, and any other necessary expenditure in connection with such assignment.

12. In the event the Employer uses any of the Employees on work wherein specifications of any governing board has set a higher scale of wages, or where another union has a higher scale of wages than provided herein, then such higher scale of wages shall be paid to all employees. However, in the event the specifications are set forth by any governing board or Union shall be less than those provided for herein, the wage rates established in this contract shall be paid to the Employees for such work.
13. All Employees shall be paid in full weekly. The Employer shall pay employees in cash or arrange with a local bank to cash pay check.
14. All Employees shall receive one half (1/2) hour off for lunch, which shall be between 11:30 am and completed by 1:00 pm. Any Employee ordered to work during the lunch period shall be paid at the overtime rate of pay for that day.
15. The Employer agrees to the principle of coffee breaks for employees, as past practice in the area.
16. The Employer shall maintain time and pay records at the Employer's place of business, showing compliance with the foregoing provisions, and said records shall be open for inspection of union representatives. Time clocks or time books are to be maintained at the Employer's job site, garage or other establishment where employees report and start and end the day's work. Union representatives may visit the Employer's establishment to

see the provisions of this Agreement are being complied with by the Employer and the Employees.

17. At least one man covered under this provision of this Agreement shall be at all times assigned to the operation of the A-Frames, winch trucks, where load bearing surface is being used.
18. The starting and checking of all trucks and equipment covered hereby shall be performed by an employee covered hereunder. (It is the intention of this clause to have equal opportunity in the starting and checking of all equipment in the AM of each day.)
19. The Employer shall use equipment covered by this Agreement and operated by Employees covered hereby, for the purpose of delivering all materials - wages, parts, cones, planks, fuel and/or any equipment or material for construction or towing, where such equipment can be used for such purposes, in the judgment of the Union.  
  
This provision shall also apply to escorting of any equipment to and from the job site. It is the intention of this provision that the Employer shall not use other equipment for the purpose of evading this Agreement.
20. Employees covered hereby shall operate snow plows, whether by jeep, suburban, pick-up or other types of vehicles covered under this Agreement.
21. Employers having plants outside the geographical area covered by this Agreement may not use trucks or equipment from any other plant unless such equipment is housed within the geographical areas covered by this Agreement, and manned by an employee covered by this Agreement. This provision is understood to permit the movement of employer's equipment from plants or other sites outside of the geographical area of this Local Union, and the first day basis, which thereafter, (at the end of the first day), said equipment will be housed within the area covered by this Agreement and thereafter operated by employees covered by this Agreement.
22. The Employer agrees to respect the jurisdictional rules of the Union, and shall not direct or require their employees or persons other than the Employees in the bargaining unit contained herein, to perform work which is recognized as the work of the Employees in the Teamsters jurisdiction.
23. Where new types of equipment are put into use by the Employer, for which rates of pay are not established by the Agreement, the rates governing such equipment will be subject to negotiations between the Employer and the Union. The rates of pay eventually agreed upon for the operation of said new types of equipment shall be retroactive as of the date the equipment was first put into use.
24. Unlimited changes may be made on equipment throughout the workday.
25. The Employer agrees to furnish rain gear where needed.

26. Hazardous Toxic Waste

- A. Conditions of employment at a hazardous toxic waste site shall be site shall be subject to all safety and insurance regulations required by appropriate government agencies.
- B. Teamsters engaged in hazardous/toxic waste removal, on a State or Federally designated hazardous/toxic waste site, where the Teamster comes in contact with hazardous/toxic waste material and when personal protective equipment is required for respiratory, skin or eye protection, the Teamster shall receive an additional 20% premium above the hourly wage set forth in this Agreement, if said premium is include in the prevailing wage rate schedule.

SCHEDULE "A"

CLASSIFICATION	WAGES PER HOUR		
	07/01/02	07/01/03	07/01/04
I. Drivers, Helpers, Platform Men, Warehousemen, And Escorts	\$22.35	\$23.75	\$25.15
II. Senior Teamster	\$22.85	\$24.25	\$25.65

WELFARE & PENSION

IN ACCORDANCE WITH ARTICLE XVIII

WELFARE:	\$ 5.95	\$ 6.15	\$ 6.35
PENSION:	\$ 3.10	\$ 3.25	\$ 3.40

ANNUITYIN ACCORDANCE WITH ARTICLE XIX  
PER HOUR BASIS

ANNUITY:	\$ 5.00	\$ 5.00	\$ 5.00
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EDUCATION AND TRAINING FUNDIN ACCORDANCE WITH ARTICLE XX  
PER HOUR BASIS

EDUCATION & TRAINING:	\$ .05	\$ .10	\$ .15
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**ARTICLE XXV – DURATION OF AGREEMENT**

THIS AGREEMENT shall become effective as of July 1, 2002, and shall continue in full force and effect until June 30, 2005.

It is understood and agreed, however, that if this Agreement is not renewed on or before the expiration date, whatever increase, if any, in wages, Welfare and Pension contributions or Annuity is eventually agreed upon, shall be retroactive to the date of expiration.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have signed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_.

**FOR THE COMPANY:**

*Robert Sherry*  
Robert Sherry  
240 Broadway, New York  
New York, NY 10008

Name: Robert Sherry

Title: PL

Date: 10-2-03

**FOR THE UNION:**

Teamsters Local 445, IBT  
PO Box 2097  
Newburgh, NY 12550  
845-564-5297

Name: Lawrence W. Borman

Title: President

Date: 10-2-03